

professional services were solicited by the complainant in this case, and that since the commencement of the same, she, (the complainant,) had been under the control and subjection of her husband, the defendant, so that she could make no provision for compensating the petitioner for his services, and the officers of this court for their fees. That upon the suits mentioned in the bill, there had been recovered, and deposited in court, by order of the Chancellor, to the credit of this cause, the sum of about \$500, which the complainant consented and requested should be applied in payment of the petitioner's services, and in payment of other expenses necessarily incurred in prosecuting the case. The petition, therefore, prays for the passage of an order authorizing the application of the money aforesaid to the purposes above mentioned.

At the hearing of this petition, after answer thereto by the defendant, the following opinion was delivered on the 16th of January, 1851 :]

THE CHANCELLOR :

There can be no doubt of the power of this court, pending a bill for a divorce by a wife, to compel the husband to pay her a reasonable sum as alimony, and also, to furnish her with the means of defraying the expenses of the suit. The case of *Ricketts vs. Ricketts*, 4 *Gill*, 105, and several cases heretofore decided by this court, and especially the case of *Daiger vs. Daiger*, recently decided, are conclusive upon the question. And it must also be considered as settled, that upon an application by the wife, for temporary alimony, and for money to carry on the suit, the merits will not be looked into, the allowance being made almost, if not entirely, as a matter of course. Such was the conclusion to which I came in the case of *Daiger vs. Daiger*, after an examination of numerous cases in this country and in England.

But, in all these cases, it will be found, the application was made by the wife who is living apart from her husband, and who is without the means of carrying on the suit. If she be living with her husband, an allowance of alimony, *pendente lite*,